

**In the Matter of
On-Sale Wine and Strong Beer, Class E
License Held by Vescio's, Inc.
d/b/a Vescio's Italian Cafe
406 14th Avenue SE
Minneapolis, MN 55414**

**Findings of Fact,
Conclusions, and
Recommendations**

This matter came before the Division of Licenses and Consumer Services at a Licensing Settlement Conference hearing on Friday, February 1, 2008 in Room 1C, Minneapolis City Hall. Appearing on behalf of the Licensee were Frank Vescio; Owner and Licensee and ~~Ermine~~ Vescio; Owner and Licensee. Appearing for the City were Ricardo Cervantes; Deputy Director of Licenses and Consumer Services, Pat Hilden; District Supervisor, Michele Olds; License Inspector, and Lt. Steven Kincaid; Police Licensing. Based on information presented at the hearing, the Division makes the following findings of fact, conclusions, and recommendations:

FINDINGS OF FACT

1. Vescio's Italian Cafe has been licensed as a restaurant since 1956. They have held their On-Sale Wine and Strong Beer license since at least 1976.
2. The Minneapolis Police Department Licensing Division conducts Youth Alcohol Compliance checks in an effort to ensure retail alcohol license holders are not serving alcohol to persons under the age of 21 years.
3. On October 16, 2007, Minneapolis Police Officers conducted a Youth Alcohol Compliance check at Vescio's. In this instance, the server examined the shoppers' identification and the two underage shoppers were sold alcohol. An Administrative Citation was issued, and a \$500 fine was imposed to Vescio's. This fine has been paid.
4. On December 6, 2007, Minneapolis Police Officers conducted a second Youth Alcohol Compliance check at Vescio's. In this matter, the server again looked at the shopper's identification and subsequently sold alcohol to the underage shopper.
5. This was the second violation for Vescio's in two (2) years. As a result of the compliance failure/sale to a minor, an Administrative Citation was issued in the amount of \$1000. This fine has been paid.

CONCLUSIONS

1. On two separate occasions, employees of Vescio's sold alcohol to persons under the age of 21, in violation of Minneapolis City Ordinance 370.10, Minnesota Statute 340A.503 subd. 2(1), and the established compliance check policy and procedures of the City of Minneapolis. These compliance failures all occurred in a period of less than twenty four months.

RECOMMENDATIONS

That the On-Sale Wine with Strong Beer License issued to Vescio's Italian Cafe shall be subject to the following adverse license action:

1. Purchase and implement an identification card reader within thirty (30) days of this agreement being approved by full City Council.
2. Provide annual alcohol service training to begin on February 9, 2008. New alcohol servers must receive alcohol service training prior to selling/serving alcohol.
3. Whenever a staff meeting is held, have alcohol service as a standing agenda item.
4. Post alcohol service related signs in highly visible locations for reminders to staff.
5. Post signs that identify Vescio's alcohol service policy to customers.
6. Employ a youth alcohol self-check/reward program with decoy four (4) times each year for the next two (2) years and keep documentation of the results within thirty (30) days of this agreement being approved by full City Council.
7. Provide an updated alcohol service policy to Licensing due at time of signing this agreement.
8. In lieu of a suspension the City shall impose a \$3000 sanction. \$1500 shall be stayed for a period of two years from the signing of this agreement. The licensee shall pay \$1500 of this sanction at the time of signing on this agreement.

Vescio's understands that the holding of a business or liquor license in the City of Minneapolis is both a privilege and a responsibility. A minimum standard shall be met in order to hold such a license. One minimum standard is that a license holder is responsible to ensure that its business operates in compliance with all applicable laws, ordinances, and regulations. It is understood and agreed that any violation of the above Recommendations shall constitute just and proper cause for the immediate imposition of any agreed upon or stayed penalties. It is further understood that compliance with the above Recommendations is a requirement for continuing to hold a license and that failure to comply with any of these conditions may result in additional adverse license action.

I have read and understand the above findings of fact, conclusions, and recommendations. I agree with their contents and I agree with the above noted Recommendations. I understand that the failure of my business to adhere to this agreement may be cause for further suspension, revocation, or denial of my license. I understand that this report must be accepted and approved by the Minneapolis City Council and Mayor.

For Vescio's, Inc.
d/b/a Vescio's Italian Cafe:

By: Frank Vescio
Frank Vescio & Lorraine Vescio
Owners ~~EILEEN~~

Dated: 2/8, 2008

For the City of Minneapolis:

By: Ricardo Cervantes
Ricardo Cervantes, Deputy Director
Licenses & Consumer Services

Dated: Feb 8, 2008



012-378-1747

Checking Identification

Policy 1: Checking Identification

This establishment will check the identification of customers appearing to be under the age of 40.

Why?

To prevent illegal alcohol sales.

- It is a *gross misdemeanor* to sell or give an alcoholic beverage to anyone under age 21
- An underage sale represents legal and financial risks to the establishment and its employees

Who is Responsible?

Bartenders/Servers/Security:

- Card everyone who looks under 40 years of age who is buying alcohol
- Become familiar with acceptable forms of identification
- Do not bring "rounds" of drinks unless you check everyone's identification
- Never make an exception and serve alcohol to customers under age 21

Owners/Managers:

- Explain and provide a copy of acceptable forms of identification to every employee
- Respond to server's requests for assistance
- Never make exceptions to serve customers under age 21
- Back-up servers' decisions not to serve an underage person
- Keep a current copy of an Identification Checking Guide behind the bar
- Terminate or discipline employees who don't follow this policy and sell alcohol without carding

No Sales to Obviously Intoxicated Customers

Policy 2: No Sales to Obviously Intoxicated Customers

This establishment will under no circumstances serve an alcoholic beverage to anyone appearing obviously intoxicated.

Why?

To prevent illegal alcohol sales, which represents legal and financial risks to the establishment and its employees.

- It is a *gross misdemeanor* to sell, give, or furnish, or in any way procure for another, an alcoholic beverage for use by an obviously intoxicated person
- Dram shop laws impose civil liability on establishments when an obviously intoxicated person is sold alcohol and then harms a third party

Who is Responsible?

Bartenders/Servers/Security:

- Learn to recognize signs of intoxication
- Greet all customers and take time to observe possible signs of intoxication before selling alcohol
- Learn how to slow down service if a customer is becoming obviously intoxicated
- Refuse service if a customer is obviously intoxicated
- Always check with each customer before bringing them alcoholic drinks paid for by someone else
- Notify all staff when a customer has been cut off

Owners/Managers:

- Train all employees to recognize signs of intoxication, and to slow down and refuse service
- Respond to server requests for assistance
- Never make exceptions, even for friends or regular customers
- Back up servers' decisions not to serve alcohol to obviously intoxicated customers
- Establish clear consequences for staff who sell alcohol to obviously intoxicated customers
- Notify police if an obviously intoxicated customer appears to be a danger to themselves and/or others

No Drink Promotions

Policy 3: No Drink Promotions

This establishment will promote social interaction and provide activities other than drinking. This establishment prohibits all drink promotions that encourage excessive drinking.

Why?

To prevent customers from becoming intoxicated, which represents legal and financial risks to the establishment and its employees.

Who is Responsible?

Bartenders/Servers/Security:

- Understand policy and make no exceptions

Owners/Managers:

- No drinking contests or competitions
- No "all-you-can-drink" or drink specials to certain groups of individuals
- Back up servers at all times
- Promote alternative activities to drinking
- Do not offer "drink of the day"
- Prohibit advertising that encourages heavy drinking
- Evaluate staff on food sales rather than total number of drinks sold

Promote Food and Non-alcoholic Beverages

Policy 4: Promote Food and Non-alcoholic Beverages

This establishment will encourage promotion of food and non-alcoholic beverages.

Why?

To respect the rights of all guests, whether they drink alcohol or not.

To prevent intoxication which represents legal and financial risks to the establishment and its employees.

Who is Responsible?

Bartenders/Servers/Security:

- Frequently offer discounted appetizers or complimentary snacks
- Greet guests by asking: "Can I bring you a beverage?" instead of "Can I bring you a cocktail?"
- Promote food sales versus more alcohol sales
- Do not push alcohol

Owners/Managers:

- Frequently offer discounted appetizers or complimentary snacks
- Evaluate servers on total sales including food and non-alcoholic beverages
- Provide separate glassware to distinguish non-alcoholic drinks
- Offer specials on non-alcoholic drinks
- Offer a large variety of non-alcoholic drinks
- Do not ask servers to push alcohol

Alternative Transportation

Policy 5: Alternative Transportation

This establishment will offer alternative transportation to obviously intoxicated customers when needed.

Why?

Intoxicated customers who drive may injure themselves or others, which represents legal and financial risks to the establishment and its employees.

Who is Responsible?

Bartenders/Servers/Security:

- Stop all alcohol service to the obviously intoxicated customer
- Encourage the guest to stay to give the person time to sober up
- Offer food or non-alcoholic beverages
- Notify the manager
- Offer to call a cab, friend or relative
- Tell the guest you will notify the police if he or she attempts to drive away from the establishment

Owners/Managers:

- Monitor alcohol service to prevent intoxication
- Back up servers when dealing with obviously intoxicated customers
- Keep a list of taxi companies at the bar or with the manager
- Call a cab, friend or relative
- Pay for a cab in extreme circumstances
- In extreme situations, when customer insists on driving, notify local law enforcement
- Train employees on how to prevent intoxication and how to handle obviously intoxicated customers

Fifteen Percent Gratuity

Policy 6: Fifteen Percent Gratuity

This establishment will guarantee all servers a 15% gratuity if alcohol service is refused and the guest does not leave a tip.

Why?

A guaranteed tip will encourage servers to terminate service when appropriate.

Who is Responsible?

Bartenders/Servers/Security:

- Cut off service to obviously intoxicated customers
- Notify your manager and other servers that you have cut off service

Owners/Managers:

- Back up servers at all times
- Provide servers with a 15% gratuity if the guest does not leave a tip, because he or she was cut off

Monitoring the Establishment for Suspicious Activities

Policy 7: Monitoring the Establishment for Suspicious Activities

This establishment requires management and staff to monitor all areas of the establishment for suspicious activities.

Why?

Employees may be able to identify underage or obviously intoxicated customers by observing their behavior in their serving area.

- To prevent violent situations from occurring
- To prevent obviously intoxicated patrons from driving

Who is Responsible?

Bartenders/Servers/Security:

- Check the establishment on a regular basis
- Notify management when an obviously intoxicated customer leaves the establishment or if a customer is becoming violent

Owners/Managers:

- Train all employees and establish procedures for handling troublesome or obviously intoxicated customers
- Back up employees when dealing with obviously intoxicated customers
- Maintain an appropriate staff/customer ratio
- Have security on duty when necessary
- Hire additional staff on busy evenings

Compliance with the Fire Code

Policy 8: Compliance with the Fire Code

This establishment will limit the number of guests coming into the establishment. The number of customers on the premises should never exceed the limit set by the fire department.

Who is Responsible?

Bartenders/Servers/Security:

- Do not allow the number of customers to exceed the limit set by the fire department
- Admit only the number of people that equals the number of people leaving

Owners/Managers:

- State the maximum number of people that will be allowed in the establishment at the front door
- Maintain an adequate ratio of staff to customers
- Admit only the number of people that equals the number of people leaving once the establishment reaches occupancy code

Why?

To prevent overcrowding which can:

- (1) cause death or injury in case of a fire, and
- (2) prevent staff from monitoring customers for intoxication level and aggressive behavior

Overcrowding represents legal and financial risks to the establishment and its employees.

No Drinking Alcohol on the Job

Policy 9: No Drinking Alcohol on the Job

This establishment forbids all employees to have alcohol in their systems while they are working. Employees may not consume alcohol while on duty, before coming to work, or during breaks. Employees may not be allowed to leave the premises during breaks.

Why?

Drinking on the job impairs one's ability to perform job duties. Employees are more likely to make mistakes, such as serving alcohol to an obviously intoxicated customer or an underage person.

It is more difficult to cut off customers if employees have been drinking with them.

Who is Responsible?

Bartenders/Servers/Security:

- Do not drink before or during work hours
- Drinking on the job will result in immediate termination
- Employees will not be allowed to work if they come on duty under the influence of alcohol

Owners/Managers:

- Do not allow drinking before or during work hours
- Terminate employees caught drinking on the job

Alcohol Awareness Training

Policy 10: Alcohol Awareness Training

This establishment will regularly provide alcohol awareness training to its employees and managers.

Why?

To prevent sales to underage or obviously intoxicated customers, which represents legal and financial risks to the establishment and its employees.

Who is Responsible?

Bartenders/Servers/Security:

- Attend mandatory alcohol awareness training

Owners/Managers:

- Provide all staff, including management, with accredited alcohol awareness training
- Provide training for new employees within the first month of their employment
- Pay hourly wage to employees who attend training
- Attend alcohol awareness training program

Incident Report Form

Policy 11: Incident Report Form

This establishment requires all staff to record questionable incidents in an incident report form (e.g., cutting off an obviously intoxicated customer; a violent offense in the establishment, etc.).

Why?

To systematically record all incidents, which might help defend the establishment in a court of law.

Regular review of the incident report form provides a good tool for giving employees positive feedback or additional training.

Who is Responsible?

Bartenders/Servers/Security:

- Record all incidents by filling out the incident report forms kept with the manager or the lead worker

Owners/Managers:

- Provide incident report forms
- Train staff on which incidents should be recorded and how
- Discuss all incidents at staff meetings
- Regularly review incident report form to determine whether new policies or training are needed to decrease establishment problems

Manager/Designated Leadworker on Duty at All Times

Policy 12: Manager/Designated Leadworker on Duty at All Times

This establishment will have a manager or leadworker on duty at all times.

Why?

To oversee activities and supervise employees on duty.

Having a manager on duty can help:

- (1) eliminate troublesome situations,
- (2) prevent customers from becoming intoxicated, which represents a legal risk to the establishment, and
- (3) prevent illegal sales to underage or obviously intoxicated customers

Who is Responsible?

Owners/Managers:

- Hire and train enough managers/leadworkers
- Ensure that the manager/leadworker on duty has authority to make decisions
- Make sure all managers/leadworkers consistently implement and enforce establishment policies
- Regularly monitor staff

Mandatory Staff Meetings

Policy 13: Mandatory Staff Meetings

This establishment will hold regular, mandatory staff meetings to discuss rules, problem situations, and ways to prevent and handle them.

Why?

To assist employees and to discuss work-related issues that can prevent sales to underage or obviously intoxicated customers, which represents legal and financial risks to the establishment and its employees.

Who is Responsible?

Bartenders/Servers/Security:

- Attend mandatory meetings. Missing more than two staff meetings in a row without prior approval may result in termination
- Ask questions and bring up ideas and concerns at staff meetings

Owners/Managers:

- Pay employees for attending staff meetings
- Review establishment policies at staff meetings
- Discuss problem situations for possible solutions
- Solicit ideas from employees
- Establish or adjust establishment policies and procedures to reduce existing problems
- Discipline or terminate employees who miss more than two staff meetings in a row without prior approval
- Document attendance and issues discussed

Provide Copies of Establishment Policies to All Staff

Policy 14: Provide Copies of Establishment Policies to All Staff

This establishment will provide all employees with a written copy of its policies. All policies will also be kept in the establishment.

Why?

To make sure all employees are aware of policies and procedures and the consequences for not following policies. This will help prevent sales to underage or obviously intoxicated customers, which represents legal and financial risks to the establishment and its employees.

Who is Responsible?

Bartenders/Servers/Security:

- Read and understand establishment policies

Owners/Managers:

- Make sure all policies are clear and specific
- Provide all employees with a copy of establishment policies
- Update establishment policies regularly
- Reinforce policies by offering regular training to employees
- Enforce policies by conducting regular spot checks to see if employees are following policies

I, _____, have read,
understand, and will follow this establishment's policies.

Employee Signature

Date

VESCIO'S ITALIAN RESTAURANT
POLICY ON THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES

OUR BUSINESS IS COMMITTED TO THE SAFE SALE AND SERVICE OF ALCOHOLIC BEVERAGES. WE HAVE DEVELOPED THIS POLICY TO ENSURE THAT WE NEVER SERVE OR SELL ALCOHOL TO UNDERAGE (UNDER 21) OR INTOXICATED CUSTOMERS. REFERRING TO THIS POLICY CAN HELP YOU APPROPRIATELY CHECK IDENTIFICATION AND REFUSE SERVICE OR SALE WHEN NECESSARY. MANAGEMENT WILL SUPPORT YOU IN CHECKING I.D. AND REFUSING SERVICE. THIS POLICY IS AN IMPORTANT PART OF PROTECTING YOURSELF AND OUR BUSINESS. BOTH THE EMPLOYEE AND MANAGEMENT CAN BE HELD RESPONSIBLE AND PUNISHED FOR ILLEGAL SALES. THE PERSON SERVING AN ALCOHOLIC BEVERAGE CAN BE PUNISHED BY IMPRISONMENT FOR NO MORE THAN 90 DAYS, A FINE OF NO MORE THAN \$700, OR BOTH.

- IT IS EVERYONE'S RESPONSIBILITY TO MAKE SURE THAT CUSTOMERS WHO BUY ALCOHOLIC BEVERAGES ARE AT LEAST 21 YEARS OF AGE. WE VERIFY THAT ALL CUSTOMERS ARE OF LEGAL DRINKING AGE (21 YEARS OLD). THEREFORE,, WE THOROUGHLY CHECK THE AGE IDENTIFICATION OT ALL PEOPLE WHO APPEAR YOUNGER THAN 30 YEARS OLD.
- ADEQUATELY CHECKING IDENTIFICATION MEANS:
 - * COMPARING THE PICTURE ON THE I.D. WITH THE CUSTOMER
 - * CHECKING THE BIRTH DATE
 - * EXAMINING THE CARD FOR SIGNS OF FALSIFICATION OR TAMPERING
 - * CHECKING THE US DRIVER LICENSE BOOKLET
- MANAGERS WILL POST SIGNS AND MAKE MATERIALS AVAILABLE TO EMPLOYEES TO HELP THEM FOLLOW THE LAWS.
- WE WILL DISCOURAGE INTOXICATION, AND NOT SERVE ANY PERSON WHO LOOKS OR ACTS INTOXICATED, EVEN IF HE/SHE IS TAKING A TAXICAB OR HAS A "DESIGNATED DRIVER." THIS INCLUDES EMPLOYEES AND REGULAR CUSTOMERS.
- REASONABLE EFFORTS WILL BE MADE TO PREVENT A PATRON WHO IS OBVIOUSLY INTOXICATED FROM DRIVING UPON LEAVING OUR ESTABLISHMENT. THIS MAY INCLUDE CALLING A TAXI OR FINDING OTHER TRANSPORTATION. IF ANY EMPLOYEES FEEL ANY PATRON IS UNABLE TO DRIVE RESPONSIBLY, HE OR SHE WILL NOTIFY MANAGEMENT WHO MAY CALL THE POLICE, IF NECESSARY.
- VIOLATION OF THESE POLICIES BY EMPLOYEES:

FIRST VIOLATION: SUSPENSION AND / OR TERMINATION

SECOND VIOLATION: TERMINATION

VESCIO'S ITALIAN RESTAURANT
POLICY ON THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES
EMPLOYEE AGREEMENT

I UNDERSTAND THAT MINNESOTA STATE LAW PROHIBITS THE SALE OF ALCOHOLIC BEVERAGES TO MINORS UNDER TWENTY-ONE (21) YEARS OF AGE AND TO OBVIOUSLY INTOXICATED INDIVIDUALS. SELLING ALCOHOLIC BEVERAGES TO A PERSON UNDER THE AGE OF 21 OR TO AN INTOXICATED PERSON MAY RESULT IN THE SUSPENSION OF LOSS OF THE ESTABLISHMENTS LICENSE TO SELL ALCOHOLIC BEVERAGES.

BY SIGNING THIS FORM I AGREE TO THE FOLLOWING STATEMENTS:

I UNDERSTAND THAT OUR RESTAURANT IS DEDICATED TO THE SAFE AND RESPONSIBLE SALE OF ALCOHOLIC BEVERAGES.

I HAVE READ THE MATERIALS DISTRIBUTED TO ME RELATED TO THE SALE OF ALCOHOLIC BEVERAGES TO MINORS AND INTOXICATED PERSONS AND UNDERSTAND THEIR REQUIREMENTS.

I UNDERSTAND THAT IT IS AGAINST THE LAW TO SELL ALCOHOLIC BEVERAGES TO ANY PERSON UNDER THE AGE OF 21.

I UNDERSTAND THAT IF A YOUNGER PERSON GIVES ME A FORM OF IDENTIFICATION, I MUST CAREFULLY CHECK TO DETERMINE IF HE OR SHE IS 21 YEARS OF AGE OR OLDER. I MUST REFUSE TO SELL ALCOHOLIC BEVERAGES TO ANYONE UNDER THE AGE OF 21.

I WILL DISCOURAGE INTOXICATION, AND NOT SERVE ANY PERSON WHO LOOKS OR ACTS INTOXICATED, EVEN IF THEY ARE TAKING A TAXICAB OR HAVE A DESIGNATED DRIVER.

EMPLOYEES SIGNATURE

DATE

MANAGERS SIGNATURE

DATE